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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 JEFF HERZOG,

9 Plaintiff,

10 v.

11 PATRICK LACY, *et ux.*, *et al.*,

12 Defendants.

No. C05-0272L

ORDER OF REMAND

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14 On April 8, 2005, the Court issued an Order to Show Cause directing defendant
15 Patrick Lacy to identify the grounds on which he believes federal jurisdiction exists. No
16 response having been filed, the Court finds as follows:

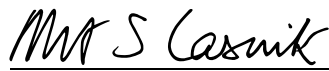
17 The underlying matter was filed in state court by plaintiff, the purchaser at a
18 Trustee's Sale of the premises located at 94 Pine Avenue, Snohomish, Washington, in an attempt
19 to evict defendants from the property. Defendant Patrick Lacy, who has not paid the filing fee
20 as ordered (see Dkt. # 2), argues that because plaintiff may have engaged in mail fraud in
21 violation of a federal statute, this Court should exercise jurisdiction over this matter to determine
22 the "[f]ederal question which is the basis of the defense for the defendants." Notice of Removal
23 at 6.

24 Plaintiff's complaint raises only state law causes of action: the federal mail fraud
25 allegations were injected into this litigation by defendant as a defense. "For better or for worse,
26 under the present statutory scheme as it has existed since 1887, a defendant may not remove a

ORDER OF REMAND

1 case to federal court unless the *plaintiff's* complaint establishes that the case 'arises under'
2 federal law." Franchise Tax Board Construction Laborers Vacation Trust, 463 U.S. 1, 10 (1983)
3 (emphasis in original). There being no basis for the exercise of federal jurisdiction, this matter
4 is hereby remanded to the Superior Court of Washington in and for the County of Snohomish.

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6 DATED this 13th day of May, 2005.

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8 Robert S. Lasnik
9 United States District Judge
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